

On a Work Permit?

You may be impacted by the '4 and 4' rule.



As of April 1, 2015, any migrant worker in a low-waged occupation who has had work permits for a total of 4 years will not be able to renew their work permit and will have to wait another 4 years before being able to return to work in Canada. This is called the '4 and 4 rule'.

This '4 and 4' rule applies to workers in the Temporary Foreign Workers Program (including workers in agriculture), the Live-In Caregiver Program, and the Caregiver stream. It does not apply to workers in the Seasonal Agricultural Worker Program.

Special provisions if you applied under Provincial Nominee Programs (PNP)

If you applied to the Alberta Immigrant Nominee Program before July 1, 2014, and have received an initial email with a favourable assessment, you are eligible to apply for a one-year bridging work permit. Please note that simply applying for a PNP certificate does not guarantee that you will get permanent residency. Similar options might be available in other provinces – contact your community advocates to learn what you can do.

How to count your time

The '4 year clock' started running on April 1, 2011. It does not include extended vacation, unemployment or times you spent outside the country.

For example, if you came in on June 1, 2011, and worked continuously, your 4 years of work will end on June 1, 2015. If you came in on June 1, 2012 but were off work for two months between your work permits, your 4 years of work will end on August 1, 2016, and so on.

If your 4 years end on June 1, 2015, you will not be able to get another work permit in Canada until June 1, 2019. If your 4 years end on June 1, 2016, you will not be able to get another work permit in Canada until June 1, 2020.

Will I be affected?

You are affected by the '4 and 4' rule if all of the following conditions apply to you:

- Your employer applied for a Labour Market Opinion (LMO) or Labour Market Impact Assessment (LMIA) on your behalf,
AND
- You have worked in Canada for a total of 4 cumulative years since April 1, 2011,
AND
- You worked this 4-year period in a low-waged occupation that falls in the categories NOC B, C, or D (National Occupational Classification), which are non-supervisory, non-managerial jobs,
AND
- You have not been selected, approved, or received a certificate as part of an application for permanent resident status (for example: Certificat de sélection du Québec (CSQ) as a Quebec Skilled Worker; Provincial Nominee Program (PNP) certificate; approval in principle letter if applying under the Live-in Caregiver Class; positive selection decision under the Federal Skilled Worker Program or the Canadian Experience Class).

I am reaching my 4 years, what can I do?

If you are reaching a total of 4 years in Canada, and are covered under the 4-year rules, get help from a community legal clinic or community advocate. Make sure to go to a reputable and registered lawyer, and do not pay any fees before checking their references. Your options may include:

- Applying for permanent residency if you are in the Live-In Caregiver / Caregiver program or applying through the Express Entry system if you are in the Temporary Foreign Workers Program.
- If there is a risk to your life and safety if you return to your country of origin, you may be able to apply for refugee status.
- You may be able to apply for a study permit.
- If you need to extend your stay in Canada for a short period, you may be able to apply for visitor status.

I have had issues with my wages, or how my boss treated me, what are my options?

- If you have been mistreated, or not adequately paid for your work, reach out to a local community organization that can support you to file complaints.
- If you have made a formal complaint to the Ministry of Labour in your province about unpaid wages, or mistreatment, your application will not be affected.
- Make sure that the Ministry of Labour has your up to date address and contact information so that they can get in touch with you if they need to.
- Be aware that leaving Canada can result in an end to employment related benefits you may be receiving. If you receive these benefits, consult with a lawyer or community legal clinic before leaving.

Can I continue to stay in Canada after my work permit expires?

- If you have not applied for any other permits, you become 'undocumented' in Canada 90 days after your work permit expires.
- Living without immigration status in Canada is an administrative offense.
- If you continue to live in the country, and if Canada Border Services Agency (CBSA) becomes aware of your presence, you may be detained, and deported. If this happens, consult a lawyer.
- It may be difficult to come back to Canada if you are detained for overstaying your work permit, so get legal advice if you wish to return after 4 years.
- If you continue to live in Canada while undocumented, you still have labour rights and protections! You may be able to apply for social assistance, and other provincial entitlements.
- Many cities and agencies have policies in place that ban them from sharing your information with federal immigration enforcement (sometimes called Don't Ask, Don't Tell; Access Without Fear or Sanctuary City policies). Find out where these policies exist if you need support including healthcare, or emergency social services. Make sure to call in advance and check that they are following their policies.
- Undocumented immigrants can apply for the chance to regularize their status in Canada through a Humanitarian and Compassionate application and, in certain situations, through a spousal or common law partner sponsorship. Although they will not be available to many people, get legal advice on whether you can make such applications.

Supports and Resources

Legal support

Reach out to free community legal clinics in your area. To find one closest to you in Ontario, visit Legal Aid Ontario at www.legalaid.on.ca

If you are working with a private immigration consultant, lawyer or agency, make sure that they are appropriately registered. You can find out by visiting the Law Society of Upper Canada website at www.lsuc.on.ca/

Migrant Workers Alliance for Change

Contact us with employment or immigration related questions – and we can direct you to appropriate support agencies in your region.

1-855-567-4722 – info@migrantworkersalliance.org



ORGANIZE FOR CHANGE

It is often hard to take action on your own. That is why caregivers, farm workers, and other migrant workers are joining together to make changes so that workers will have stronger protections, no matter where they work.

Join this important work!

Updated March, 2015. Check migrantworkersalliance.org for updates.